

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
10

11 RUFINA HILARIO GARCIA, individually ) Case No.: 1:20-cv-0093-LJO- JLT  
12 and on behalf of Ce. H.G., M.H.G., P.H.G. , )  
13 Ca.H.G., and O.H.G., minors, being the heirs ) ORDER DIRECTING PLAINTIFFS TO FILE A  
14 of and successors-in-interest to SANTO ) MOTION FOR APPOINTMENT OF A  
15 HILARIO GARCIA and MARCELINA ) GUARDIAN AD LITEM  
16 GARCIA PROPECTO, )  
17 Plaintiffs, )  
18 v. )  
19 UNITED STATES OF AMERICA, )  
20 Defendant. )  
21

22 The plaintiffs are the children of Santo Hilario Garcia and Marcelina Garcia Profecto, and assert  
23 the Government is liable for the wrongful deaths of their parents following a high-speed vehicle chase  
24 by the United States Department of Homeland Security and its Immigration and Customs Enforcement  
25 Agency. (*See generally* Doc. 1) Because plaintiffs Ce. H.G., M.H.G., P.H.G. , Ca.H.G., and O.H.G. are  
26 minors, they are unable to prosecute the claims presented in the complaint and their claims may only be  
27 brought “by a next friend or a guardian ad litem.” *See* Fed. R. Civ. P. 17(c)(2). In addition, pursuant to  
28 Local Rule 202,

29 Upon commencement of an action or upon initial appearance in defense of an action by  
30 or on behalf of a minor or incompetent person, the attorney representing the minor or  
31 incompetent person shall present (1) appropriate evidence of the appointment of a  
32 representative for the minor or incompetent person under state law or (2) a motion for the  
33 appointment of a guardian ad litem by the Court, or, (3) a showing satisfactory to the

1 Court that no such appointment is necessary to ensure adequate representation of the  
2 minor or incompetent person.

3 *Id.* (citing Fed. R. Civ. P. 17(c)).

4 The Court’s review of the docket reveals Plaintiffs have not requested appointment of a  
5 guardian ad litem, there is no evidence identified of the formal appointment of a representative for the  
6 minor children, and there is no allegation in the complaint that such an appointment is not necessary.  
7 To the contrary, the complaint indicates that Rufina Hilario Garcia “brings this action on behalf of  
8 herself and her minor siblings, Ce.H.G., M.H.G., P.H.G., Ca.H.G., and O.H.G.,” but Ms. Garcia has  
9 not requested appointment.

10 Accordingly, the Court **ORDERS**: Plaintiffs **SHALL** file a motion for the appointment of  
11 Rufina Hilario Garcia as the guardian ad litem **no later than February 21, 2020.**

12  
13 IT IS SO ORDERED.

14 Dated: **January 30, 2020**

**/s/ Jennifer L. Thurston**  
UNITED STATES MAGISTRATE JUDGE